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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/886,894	06/21/2001	John Joseph Curro	8590	6719

27752 7590 06/18/2003

THE PROCTER & GAMBLE COMPANY
INTELLECTUAL PROPERTY DIVISION
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EXAMINER

PIERCE, JEREMY R

ART UNIT	PAPER NUMBER
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1771

DATE MAILED: 06/18/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AS 8

Office Action Summary	Application No. 09/886,894	Applicant(s) CURRO ET AL.	
	Examiner Jeremy R. Pierce	Art Unit 1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 22 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1,2 and 4-17 is/are pending in the application.
- 4a) Of the above claim(s) 9-16 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,4-8 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>6</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Amendment A has been filed on April 22, 2003 as Paper No. 7. Claims 1, 6, and 7 have been amended. Claim 3 has been cancelled. New claim 17 has been added. Claims 1, 2, and 4-17 are currently pending with claims 9-16 withdrawn from consideration being directed to a non-elected invention.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 17 recites the "web of dielectric material exhibits a reduced density and reduced dielectric constant." Reduced compared to what? The Examiner will assume that the materials disclosed by Applicant for the dielectric material would meet the claimed properties.

Claim Rejections - 35 USC § 102/103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1, 2, 4, and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Proulx (U.S. Patent No. 5,304,741).

Proulx disclose an electrical cable with parallel flat conductors with a web of dielectric material to keep the conductors separated in a spaced parallel relation (Abstract and Figure 1). The limitation of the dielectric material being stretched to enable it to hold the conductors in a spaced parallel relation is a product by process limitation. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985). With regard to claim 2, the conductors are preferably copper (column 1, line 52). With regard to claim 4, the conductor wire is held in place by insulation material that is thermoplastic polymer (column 2, lines 15-38). With regard to claim 17, fluorinated ethylene polymers typically exhibit reduced densities, and consequently, reduced dielectric constants.

Claim Rejections - 35 USC § 103

6. Claims 1, 2, 4, 5, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Springer et al. (U.S. Patent No. 5,744,756) in view of Proulx.

Springer et al. disclose a transmission cable with parallel conductors held in place by meltblown microfiber insulation (Abstract). Springer et al. do not disclose the parallel conductors to be flat or to be made of metal. Springer et al. do disclose the

conductors are constructed of any conventional electrically conductive material (column 5, lines 3-5). Proulx disclose conventional conductive material is flat, round, or a combination of both (column 1, lines 7-12). It would have been obvious to one having ordinary skill in the art to use flat metal conductors as taught by Proulx in order to provide a flat configuration to the cable, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. *In re Leshin*, 125 USPQ 416. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

7. Claims 1, 2, 4, 6-8, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ainsworth et al. (U.S. Patent No. 4,924,037) in view of Proulx.

Ainsworth et al. disclose parallel copper wires coated with a film of microporous, expanded polytetrafluoroethylene (column 1, lines 9-12). Ainsworth et al. do not disclose the wires to be flat, but does desire the cable to be flat (column 1, line 50). Proulx discloses parallel flat conductors. It would have been obvious to one having ordinary skill in the art to use flat metal conductors as taught by Proulx in order to more easily create the flat cable desired by Ainsworth et al., since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process.

8. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Proulx in view of Springer et al.

Proulx do not disclose a nonwoven fabric as the insulating material. Springer et al. disclose using meltblown fabrics as the insulating material as a means of providing sufficient insulation at a reasonable cost (column 2, lines 42-44). It would have been obvious to one having ordinary skill in the art to use the meltblown fabric for insulation material in the cable of Proulx in order to provide sufficient insulation at a decreased cost, as taught by Springer et al.

9. Claims 6-8 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Proulx in view of Ainsworth et al.

Proulx do not disclose using microporous expanded PTFE as the insulating material. Ainsworth et al. disclose microporous expanded PTFE is advantageously used as insulating material in electrical cable in order to provide heat resistance and sufficient flexibility. It would have been obvious to one having ordinary skill in the art to use the insulating material taught by Ainsworth et al. in the cable of Proulx in order to provide sufficient heat resistance and flexibility.

Response to Arguments

10. Applicant's arguments filed in Paper No. 7 have been fully considered but they are not persuasive.

11. Applicant argues that none of the references used in the rejections teach stretching the web of dielectric material in order to hold the conductors in a spaced,

parallel relationship. However, this limitation is a processing limitation in a product claim. The references, alone or in combination, meet all the physical and structural limitations of the claims. Once the examiner provides a rationale tending to show that the claimed product appears to be the same or similar to that of the prior art, although produced by a different process, the burden shifts to applicant to come forward with evidence establishing an unobvious difference between the claimed product and the prior art product. *In re Marosi*, 710 F.2d 798, 802, 218 USPQ 289, 292 (Fed. Cir. 1983).

Conclusion

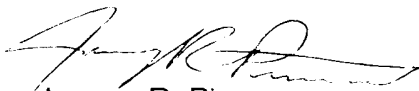
12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jeremy R. Pierce whose telephone number is (703) 605-4243. The examiner can normally be reached on Monday-Thursday 7-4:30 and alternate Fridays 7-4.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Jeremy R. Pierce
Examiner
Art Unit 1771

June 13, 2003


ELIZABETH M. COLE
EXAMINER